

REMARKS

In the Office Action, the Examiner rejected Claims 1-15, which are all of the pending claims, under 35 U.S.C. 102(e) as being fully anticipated by U.S. Patent 6,694,419 (Schnee, et al.). Claims 2, 3, 4, 8, 9, 13 and 14 were further rejected under 35 U.S.C. 112, second paragraph, as being indefinite. In addition, the Examiner rejected the specification under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement, and the Examiner noted an informality in the specification.

For the reasons discussed below, the rejections of the claims and the specification are respectfully traversed. The informality noted in the specification by the Examiner is being corrected.

With respect to the specification, Applicants first wish to note that the pages and line numbers referred to by the Examiner do not match the page and line numbers of Applicants' "as filed" copy of the application. Also, Applicants' "as filed" copy is consistent with the copy of the application published by the Patent Office.

The page and line numbers used herein refer to Applicants' "as filed" copy of the application. If these page and line numbers are not consistent with the Examiner's copy of the application, the Examiner is asked to telephone the undersigned.

Specifically, on page 7, line 11, the spelling of "base" is being corrected. Applicants' Attorneys have carefully reviewed the specification, and it appears that this was the only informality therein.

The Examiner's rejection of the specification is respectfully traversed because the specification fully enables those of ordinary skill in the art to practice the invention.

With regard to this issue, the Examiner, in the Office Action, specifically objected to the terms "the base reference year RAM" and "A(x)." The latter term appears on page 8, line 5 of the specification and in Claims 3, 4, 8, 9, 13 and 14. The Examiner further objected to the word "manpower" in Claim 2. This word also occurs in Claims 7 and 12.

A review of the specification shows that the phrase "the base reference year RAM" is used on the context of obtaining or selecting a normalization function Ry relative to a RAM. One of ordinary skill in the art, after a review of the specification, would readily recognize that this is a factor based on some reference year for the RAM. RAM capabilities change over time, and it is clear that this normalization factor is used in the invention to take this tame variability into account. Any suitable specific year may be used, and that year may be used in any appropriate manner in the calculation or selection of Ry.

The term "A(x)" is used to represent a function the value of which varies with the value of some variable. "A(x)" is similar to the very well known terms "f(x)" or "F(x)," which simply denotes a function of x. In the present application, A(x) is used rather than "f(x)." Among other reasons, the use of A(x) may make it easier for a reader to remember that the function is asymptotic. Those of ordinary skill in the art would easily understand that A(x) represents a variable function, and how to obtain a suitable specific function that can be used in the practice of the invention.

Similarly, the word "manpower" is very well known and very commonly used to indicate power or work furnished by human labor. This word is used in the present application in its ordinary and customary meaning, and those of ordinary skill in the art would clearly understand what it means, and how it is used in the present invention.

Applicants' Attorneys have carefully reviewed the specification and the claims, and the specification fully enables those of ordinary skill in the art to practice the claimed invention. More specifically, the present invention relates to methods and systems for measuring the size of a distributed system of interconnected servers. In the procedure of the invention, two weighted functions are formed, and then used to obtain a value for the server system. Specific procedures for forming these functions are described in the specification on pages 6-8, and these pages also describe in detail how to use these functions to determine a value for the system size.

In view of the foregoing, Applicants ask that the Examiner reconsider and withdraw the rejection of the specification.

In rejecting Claims 2-4, 8, 9, 13 and 14 as being indefinite, the Examiner specifically objected to use in the claims of the terms "manpower" and "A(x)." As discussed above, these terms are not indefinite. In particular, "manpower" is a very well known word, and it is not necessary to include an express definition of the word in this specification. Also, "A(x)" is used to represent an asymptotic function the value of which is a function of the value of some variable. Many specific functions can be used as "A(x)," and the meaning of this term is well understood by those of ordinary skill in the art.

In view of the foregoing, Claims 1-15 are clear and definite, within the meaning of 35 U.S.C. 112, and the Examiner is, consequently respectfully asked to reconsider and to withdraw the rejections of Claims 2-4, 8, 9, 13 and 14 under 35 U.S.C. 112.

The rejection of the claims under 35 U.S.C. 102 is respectfully traversed because Schnee, et al. is not prior art as to the present application. This is because the filing date, August 22, 2001, of the present application is before the filing date, April 12, 2002, of Schnee, et al. Thus, Schnee, et al.

is not a patent by another filed before Applicants' invention and thus does not qualify as prior art under 35 U.S.C. 102(e). Since Schnee, et al. does not qualify as prior art under any other subsection of 35 U.S.C. 102, this patent does not qualify as prior art as to the present application. The Examiner is, hence. Also asked to reconsider and to withdraw the rejection of Claims 1-15 under 35 U.S.C. 102, and to allow these claims

For the reasons set forth above, the Examiner is requested to reconsider and to withdraw the rejection of the specification, the rejection of Claims 1-15 under 35 U.S.C. 102, and the rejection of Claims 2-4, 8, 9, 13 and 14 under 35 U.S.C. 112, and to allow Claims 1-15. If the Examiner believes that a telephone conference with Applicants' Attorneys would be advantageous to the disposition of this case, the Examiner is asked to telephone the undersigned.

Respectfully submitted,

John S. Sensny
John S. Sensny
Registration No. 28,757
Attorney for Applicant

SCULLY, SCOTT, MURPHY & PRESSER
400 Garden City Plaza – Suite 300
Garden City, New York 11530
(516) 742-4343

JSS:jy